Supreme Court, U.S.
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No.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1994

JOHN F.CHOW and ESTHER K.CHOW
Petitioners

vs.

INTERNAL REVENUE SERVICE, Et. Al.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITIONERS WRIT OF CERTIORARI

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54 pp

QUESTIONS PRESENTED

1. Whether the Ninth Circuit Court of Appeals rendered its MEMORANDUM in conflict with the Court's case precedents between 1987 and the present?

2. Whether R.I.C.O.ACT apply to the I.R.S. in similar situation as NOW,Inc v. Scheidler, 114 S.Ct. 789,799?

3. Whether the IRS AND ITS AGENTS are subjected to 44 U.S.C. § 3512,when the Collection of Information occured after December 31,1981?

4. Whether the Lower Courts depart from the accepted precedents,as to call this High Court's power of supervision?

5. Whether the IRS and its agents MUST COMPLY with their statutes and laws that Congress enacted ?

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PETITIONERS' BRIEF FOR WRIT OF CERTIORARI

OPINIONS BELOW

The MEMORANDUM of the NINTH CIRCUIT and Denial for review are unpublished. The Order of the premature dismissal by the Central District Court is unreported.(Pet. Appendix 1 and 2).

JURISDICTION

The order of dismissal by the Central District Court was entered on July 2,1993.

The MEMORANDUM and DENIAL FOR REVIEW by the UNITED STATES COURT OF APPEALS for the NINTH Circuit were on MAY 16,1994 and JUNE 30,1994,respectively. (Pet.App.1,2)

This Petition for Writ of Certiorari is filed forthwith. The Jurisdiction of this Court is invoked under 28 U.S.C. §§ 1951,1952,1954 and Supreme Court Rules 10.1(a) and (c). *IRS' CLOCK TICKED 150 DAYS FROM 6/7/91(1988) AND 10/7/91 (1987) TO LEVY.*

STATEMENT

1. On April 29,1993, Petitioners filed their FIRST AMENDED COMPLAINT entitled JOHN F.CHOW and ESTHER K.CHOW v. INTERNAL REVENUE SERVICE,et. al.,in the Central District Court in Los Angeles case No.CV 93-356162.

2. On JUNE 24,1993 and JULY 2,1993, the CREDIT UNION and its employees,and the IRS defendants were instantly dismissed prematurely by the Central District Court.

3. On JULY 28,1993, CHOWS filed the timely appeal to the Ninth Circuit Court of Appeal. Both the Appeal and the Petition For Rehearing en banc were denied respectively,on MAY 16,1994 and JUNE 30,1994.

4. This case of FIRST IMPRESSION is filed by CHOWS for FEDERAL QUESTION OF LAW, because the Lower Courts conflicted their own case-precedents and other Courts of Appeal,on the same matters or, have never been "fleshed out" by this Court,the term used by the NINTH(refers to 9th) Circuit in their conflicting MEMORANDUM decided in *ARFORD v. U.S.*(9th,1991) 934 F2d 229,n[5] on p 232(emphasis added). The same issue of SOVEREIGN IMMUNITY under 28 U.S.C.§2410

served as a waiver in ARFORD,while this waiver is called "ATTACKING COLLATERALLY THE MERITS OF THE ghostly assessment" by CHOWS in 1994, when there were NEVER ANY LEGAL ASSESSMENTS made by the IRS and its agents against CHOW for 1987 and 1988 tax years. See PET.APP.4

5. After at least FIFTY SEVEN attempts made by the CHOWS to exhaust their administrative remedies,referred to by the 9th Circuit, as " A CASCADE OF CHALLENGES TO THE IRS LEVY" by intentionally ommitting the serious words of PROCEDURAL DEFECT,IRREGULARITIES and WRONGFUL LEVY,it dismissed arbitrarily and capriciously the CHOWS' FIRST AMENDED COMPLAINT for : 1) RICO; 2) CONSPIRACY; 3) INTENTIONAL AND RECKLESS REFUSALS BY IRS TO COMPLY WITH THE CONGRESSIONAL IR CODES AND LAWS since at least 1986 to present; 4) COMMON-LAW FRAUD.

6. The 9th CONTINUED to condone the IRS and its codefendants by claiming that

the CHOWS " did not exhaust the administrative remedies" by referring to 26 C.F.R. § 301-7433-1(e)."

(Pet.App. 1 pp 1-4).

This statute never required ANY person to go beyond the IRS DISTRICT DIRECTOR to exhaust the administrative remedies,neither did CONGRESS demand the full payments first and then file the "refund suit" which is another type of unlawful charging a person,e.g. ONE IS GUILTY BEYOND REASONABLE DOUBT,instead of INNOCENT UNTIL PROVEN GUILTY,doctrine for decades.

7. The IRS laws are clear and unambiguous and the U.S.SUPREME COURT made a controlling interpretation of a law, it must be given full effect ,see *HARPER v. VIRGINIA Dept.of Taxation* (1993), 113 S.Ct. 2510 at 2517. Other United States Court of Appeals have decided the same important questions of Federal laws' interpretation, in particular : 1) *SCAR v. C.I.R.*(9th,1987)

814 F2d 1363 at 1367-69[(DEFICIENCY must comply with 26 U.S.C.A. § 6212(a)]; *GROETZINGER v.CIR(* 1985) 771 F2d 269 at 276 (gambling losses can exceed winnings); *LANG v. U.S* (1955), 134 F.Supp.214 at 215 and *ADAMS v. U.S.(* 5th,1980),615 F2d 284,both issues of "ADMINISTRATIVE REMEDIES EXHAUSTION" and *INFORMATION RESOUCES,INC.v. U.S.(* 5th,1992), 950 F2d 1122 at 1127(emphasis added):

> " REQUIRING INFORMATION RESOURCES TO EXHAUST ADMINISTRATIVE PROCEDURES WOULD BE A *USELESS FORMALITY*,AND THE LAW DOES NOT *REQUIRE A PARTY TO PURSUE A USELESS FORMALITY.*"

8. The ASSESSMENTS LAWS went into effect since 1954. See Vol. 68A IRS CODE of 1954, U.S.STATUTES AT LARGE,83rd Congress 1954 Second Session, 767 thru 769.

9. This Panel's Justice DOROTHY NELSON conflicted herself in 1994,she REFUSED TO APPLY the term "DEFICIENCY" based on 26 U.S.C § 6211(a) as she did in 1987,in favor of SCAR, supra. The panel also conflicted with

other similar matters that were already determined,e.g."REFUSAL by IRS and its agents to cooperate,refused to communicate and refused to follow its own procedures and requirements" *STALLARD v.U.S.(* W.D.Tex.1992),806 F.Supp.152 at 158-159 and *PORTILLO v. CIR(* 5th,1991*)* 932 F2d 1128 at 1132 which held that

> " By its very definition and etymology, the word ' DETERMINATION' irresistibly connoted CONSIDERATION,RESOLUTION, CONCLUSION, and JUDGMENT."

This was what Justice DOROTHY NELSON declared affirmatively. HOwever,when it came to these ORIENTALS, she conflicted herself.

U.S.SUPREME COURT Rule 10.1.(a) and (c), entitle CHONS to call this High Court for an exercise of power to supervise .

IRS' presumption of "correctness has a herculean muscularity of GOLIATHLIKE reach, and this High Court should strike the ACHILLES' heel because there ARE NO TENDONS," Id,supra at 1133. (1991,5th Circ.)

CONGRESSIONAL DEMAND AND LAWS TO LEVY AND CONFISCATE PROPERTY

CONGRESS ALONE ENACTS IRS' LAWS

(Article I § 1, U.S.Constitution)
STANARD v. OLESEN (1954), 74 S.Ct. 768
U.S.v.LOCKE((1985),105 S.Ct. 1785
RIVERS v. ROADWAY EXPRESS,INC(1994)
114 S.Ct. 1510, n 12

"UNITED STATES"MEANS the PEOPLE WHO GOVERNED IT
(JULY 4,1776 DECLARATION OF INDEPENDENCE"

IRS AUDIT

(Authorities: 26 USCA § 6001; MUST COMPLY with 44 USCA 3512 to Protect the PUBLIC From IRS' ABUSES: to PREVENT IRS From 'BOOTLEG REQUESTS', When INFORMATION REQUESTS ARE MADE AFTER DECEMBER 31,1981
NO OMB NUMBER,THERE IS N O PENALTY WHATSOEVER;
5 C.F.R. §§ 1320.4;1320.5; 1320.7 and
5 U.S.Code & Congressional Adm.News p 6253 P.L. 96-511
¶¶ 4 and 5.

NOTICE OF DEFICIENCY

(Authority: Treas.Reg.26 C.F.R. §§ 301.6211-1 and 301.6212
SCAR v. COMM.(9th,1987) 814 F2d at 1369
The 9th Circuit DID NOT APPLY "SUBSTANTIAL REQUIREMENTS" SIMILARLY, in CASE AT BAR

ASSESSMENT

This Is The "FOUNDATION" Of IRS' LIEN & LEVY
(Authorities: 26 C.F.R. § 301.6202; 68A IRS Code of 1954 83rd Cong.2d Session U.S.STATUTES AT LARGE, pp 767-769; 26 C.F.R. § 6203; P.L. 94-455 of 1976;

26 USCA § 6303(3 U.S.C.C.A.N.p4553)
With Mandatory Certification of the
FORM 23C,a.k.a.FORM 4340,a.k.a.
"UTL" 49,Concocted by the IRS
AND Its Agents,WITHIN 60
MANDATORY DAYS From The Assessment
BREWER v. U.S. (1991)764 F.Supp.at 313; /a
and *COHEN v.U.S* .(1991),
23 Cl.Ct. 717,at 720

"ASSESSMENT"Must Contain the Following:

1) Identification of the taxpayer;2) Taxpayer's liability:3) Tax Period; 4) Amount of Tax; 5) Date of Assessment; and MUST BE CERTIFIED BY AN ASSESSMENT OFFICER,WITHIN 60 DAYS.
If taxpayer demands a copy,he/she SHALL BE PROVIDED WITH A TRUE CERTIFIED COPY OF SUMMARY RECORD,WITH A LEGAL OMB number.

In case at bar, there was only a bank levy in the sum of over $ 18,000 on APRIL 23,1994. Petitioners NEVER WERE AUDITED, NEVER RECEIVED,TIMELY,the NOTICE OF DEFICIENCY.*IRS RECKLESSLY DISREGARD LAWS, e.g.* 26 U.S.C. § 6212(a):"CONGRESS DID NOT GRANT THE SECRETARY UNLIMITED AND UNFETTERED AUTHORITY TO ISSUE NOTICES OF DEFICIENCY" SCAR,81 T.C. AT 872,cited in 1987 by the same Justice NELSON and against this case ,in 1994.*SCAR v.C.I.R*, supra.

/a See also *HUFF v. U.S*(9th,1993)10F3d at 1446

From the very bottom of Petitioners' hearts, they sincerely and seriously apologize for the reductions on some of PETITIONERS' APPENDIX(referred to "PET.APP.").

Unless reduced, the volumes of the records would OVERBURDEN this High Court.

10. The IRS never audited CHOWS. CHOWS DO NOT OWE any taxes for 1987 and 1988. They never received ANY ASSESSMENTS which SHALL COMPLY with 26 U.S.C. §§ 6202,6203,6303 and 26 CFR § 301.7433 and 2410 are waivers to SUE IRS,AGENTS and CREDIT UNION for honoring the wrongful levy which defendants knew personally that the LEVY was wrong AB INITIO.

11. The NOTICE OF DEFICIENCY violated the principles set forth in the 9th Circuit own *SCAR v. CIR (9th Cir.1987)* 814 F2d 1363 at 1367 standards,which are seriously conflicting with case at bar,' MUST MEET **CERTAIN SUBSTANTIAL REQUIREMENT.'**

The law unambigously states in pertinent

part as follows:

> (a) The District Director is authorized and required to make ALL inquiries, necessary to the **DETERMINATION of ALL taxes. .** However, certain inquiries and determinations, are, by direction of the Commissioner, MADE by OTHER officials, such as the assistant regional commissioner."

This authority is based upon the Congressional enactment, 26 C.F.R. § 301.6203-1 which states in pertinent part as follows:

> " The District Director and the Director of the regional service SHALL appoint ONE of MORE ASSESSMENT officers in a Service Center.
>
> The assessment SHALL be made by an assessment officer SIGNING THE SUMMARY RECORD(a.k.a. Form 23C, a.k.a. Form 4340 and a.k.a. [UTL 49-unable to locate] SHALL provide identification of the taxpayer, the character of the liability assessed, the taxable period . . and the amount assessed. . .
>
> The date of the assessment is the date of the SUMMARY RECORD is signed by an ASSESSMENT officer.
>
> If the taxpayer requests a COPY of the RECORD of the ASSESSMENT, HE/SHE S H A L L be furnished a copy. . "

IN addition to the mandates by Congress,

the IRS also must comply with the 60 days only,to send "NOTICE AND DEMAND SHALL BE MADE WITHIN 60 DAYS,AFTER THE MAKING OF ASSESSMENT. . AFTER THE RECEIPT of the CERTIFIED LIST OF SUMMARY RECORD."

3 U.S.C.C.&ADM.NEWS, 26 USC § 6303,p 4554.

CHOWS 57 demands,by mail,according to 26 CFR § 301.7433-1(e),fell on IRS' deaf ears, since 1991 to present. CHOWS NEVER RECEIVED IT.

The administrative exhaustion to remedy the IRS,WHO created the problems,have been completed and because IRS refused to respond, then, the 9th Circuit wilfully ignored the laws that have been USELESS and *INFORMATION RESOURCES*, supra, 950 F2d (5th,1992,) correctly determined the same matter of "ADMINISTRATIVE EXHAUSTION OF REMEDIES",forthwith. ID at p 1127.

ARGUMENT

1. THE NINTH CIRCUIT CONFLICTED WITH ITS OWN DECISIONS.

In 1987, the same Justice DOROTHY NELSON determined that the IRS must "COMPLY WITH

STATUTORY REQUIREMENTS STATED ON 26 U.S.C. § 6212(a)." Scar,supra ,814 F2d (9th, 1987) 1663 at 1370.

Case at bar, against these ORIENTALS, whatever the IRS claimed against the CHOWS, INCLUDING FAILURE TO COMPLY WITH ALL STATUTORY DEFICIENCIES, is called "COLLATERALLY ATTACKING THE MERITS OF THE LEVY/ASSESSMENTS" when there is NOTHING TO ATTACK. (PET.APP. *1 p 4)*

In *ARFORD v. U.S.(9th,1991)*,934 F2d 229 at 232, the 9th CIRCUIT favored the white couple ARFORD,for the very same challenges of assessment under 26 U.S.C. §§ 6201 and 6203.

In ARFORD, the 9th Circuit said that"§2410 serves as a waiver,by remanding the case to the District Court to FLESH OUT THE § 6203 CLAIM," ID.SUPRA AT 232.

As such, CHOWS respectfully urged that this High Court issue the correction and supervise the lower Court.

2. Judges and their Courts have been subjected to R.I.C.O. liabilities, there is nothing to stop this High Court to apply equally to these IRS,AGENTS AND CREDIT UNION.

Recently this HIGH Court determined that

> " RICO does NOT require PROOF that EITHER RACKETEERING ENTERPRISE or PREDICATE ACTS of RACKETEERING be motivated by economic purpose."

NOW,Inc. v. SCHEIDLER (1994), 114 S.Ct.798,799.

This High Court had ruled that RICO defendants DO NOT HAVE TO BE MOTIVATED by "economic purpose." Certainly, in case at bar, the wrong levy is more than "ECONOMIC PURPOSE" and RICO **MUST** be applicable to the IRS,its agents and the CREDIT UNION,who sat idly by when each knows that the "levy"is not in compliance with ALL THE compulsory statutes demanded by CONGRESS.

It is not the duty of the lower Courts to "FILL IN THE GAPS that they think the Congress left the words out" . See *MCI Telecomm. v. AT&T* (1994), 114 S.Ct. 2223, ns 3-6

and *U.S.v.LOCKE(1985)*, 105 S.Ct. 1785 at 1793: " Going behind the plain LANGUAGE OF A STATUTE IN SEARCH OF A POSSIBLY CONTRARY CONGRESSIONAL INTENT,IS A STEP CAUTIOUSLY TO BE TAKEN,EVEN UNDER THE BEST OF CIRCUMSTANCES."

For decades the IRS and its agents have acted ABOVE ALL LAWS and yet, they are condoned in discriminatory styles,against the 14th Amendment to the United States Constitutions' protections. Unless SETTLED by this High Court as precedents, duplications of these WRITS will authomatically occur in the future. See Pet.APP. 7, the pending lawsuit to prevent the very same problems the IRS created,for decades with IMPUNITY.

The duplications of the same matters have been filed against the IRS,but this High Court has NOT ruled that (a) THE IRS is no better than SCHEIDLER,who killed. So did the IRS,killing people,confiscating their properties which BLACK's Law Dictionary defined it to be " AS MONEY,GOODS, CHATTELS,NOTES,BONDS,and EVIDENCE OF DEBT." 5th Ed. p 1096. (b) The IRS and agents whimsically

kill people. The 9th Circuit intentionally erred and abused its discretion by,in this case, accused CHOWS of "COLLATERRALY ATTACKING THE MERITS OF THE LEVY/ASSESSMENT" when the panel personally knew that CHOWS challenged the irregularities of the IRS:NEVER ABIDING or COMPLYING WITH ANY LAWS THAT CONGRESS ALREADY MADE FOR ASSESSMENTS,LEVY and LIEN. The 9th Circuit further knew that CHOWS " ASSERT A CASCADE OF CHALLENGES(PET.APP.1 p 3),yet, it denied ALL REMEDIES,by excusing themselves with 28 U.S.C § 2410(a),against its own ARFORD,supra,934 F2d 229,a case precedent earlier.

This High Court repeatedly declared that

> " ADMINISTRATIVE AGENCY's STATUTES ARE BOUND by Congress' ULTIMATE purposes and CONGRESS' MEANS that have been deemed appropriate," *MCI, supra, 114 S.Ct. 2223 notes 3 thru 6.*

RICO should be applied against the IRS and its agents also. The IRS and its agents ARE NOT ABOVE THE LAW. Petitioners humbly

pray for this High Court's wisdom to issue a final decision about the liabilities against the individual defendants and the co-defendents of CREDIT UNION herein,based on the facts, NOT racial make-up of the CHOWS.

As determined in NOW,Inc,supra, CHOWS pray, on their own behalf and millions of others who are subjected to the IRS abuses,with impunity for decades, to hold them liable for the wrongful levy, and NOT the collateral attack on the assessment,which NEVER EXISTED.

The 9th Circuit also conflicted with its own case, *U.S. v. CHAVEZ* (9th Circ.1980), 627 F2d 953,101 S.Ct. 1367 when it discriminated CHOWS with that case

> " MANDATORY LANGUAGE INDICATES A CONGRESSIONAL LIMITATION ON AGENCY's DISCRETION."

However, in case at bar, that Court refused to limit the IRS' illusory power to act above its own laws. As the writer DAVID BURNHAM's book

A LAW UNTO ITSELF (1987) [PET.APP.6] said that

> " But when it comes to the IRS and a possible TAX VIOLATION, there are frequently NO GLARING RED LIGHT to either WARN the taxpayer. . . That agents could find [errors] in 99.9% of ALL TAX returns. . *ALL OF US CAN BE CHARGED* with CIVIL OR CRIMINAL TAX CHARGES.." Pp 20,21.

The 9th Circuit further conflicted with the principles set forth in *MARTIN v. U.S.(4th Circ.1990)*,895 F2d 992 which said that

> The statute gave the district courts jurisdiction over civil actions brought against the government to recover *ANY TAX TO HAVE BEEN ERRONEOUSLY OR ILLEGALLY ASSESSED or COLLECTED,"* referring to 26 U.S.C.A. § 1346(a)(1).

No matter what statute the CHOWS applied and claimed in the complaint, the 9th Circuit set its mind in dismissing the complaint anyway, in order to keep Justice FERNANDEZ' brotherhood in the Central District Court, happy. He was a former judge in the Central District Court and elevated to the NINTH CIRCUIT.

The Ninth Circuit conflicted with its own *BANK OF NEVADA v. U.S.(9th,1957)*,251 F2d

820, 78 S.Ct. 780 by refusing to apply the laws,e.g. "LEVY AND LIEN ARE STRICTLY FEDERAL AND STRICTLY STATUTORY."

Having the personal knowledge of the above,which case went to the SUPREME COURT also, CHOWS were continuously denied their due process because of some illusory alibies that the IRS and its codefendants concocted,for ages.

Certainly, the Courtsare ignorant of the cases and laws, pertaining to levy and liens, that "IGNORANCE OF THE LAW WILL NOT EXCUSE ANY PERSON." *BARLOW v. U.S.(1833),* 32 U.S. 404 (Peters) at 410.

26 CFR § 301.7433-1(e),cited by the 9th Circuit (PET.APP. 1 p 4 n 5) only required that " (e) Procedures For An Administrative CLAIM- (1) Manner. Administrative claim. .SHALL BE SENT IN WRITING TO THE DISTRICT DIRECTOR. . (2) Form. The administrative claim SHALL INCLUDE (i) The name,current address. .and the taxpayer identification number. . (ii) the grounds. . in detail; (iii) a description of the injuries; (iv) the dollar amount."

The above statute DOES NOT DEMAND ANY OTHER ACTS TO BE DONE,ONLY A LETTER SENT TO THE

DISTRICT DIRECTOR, not the courts.9th Circuit should have (SEE ONE OF LETTERS,PET.APP.3)followed Martin,supra;§ 1346(a)(1) should suffice the waiver of sovereign immunity,to be sued under the statute because the IRS and its agents recklessly destroyed the party's(taxpayer's constitutional rights) sanity! *Compl.p4,line 1*

This was more than sufficiently done by Petitioners. Yet, the 9th Circuit only rubber-stamped the Central District Court's dismissal.

Certainly the 9th Circuit run inapposite to *U.S.v.LOCKE (1985)*, 105 S.Ct.1785,at 1793.

Again, this High Court is urged to do something against the lower Courts,"DO NOT GO BEHIND THE PLAIN LANGUAGE OF A STATUTE,IN SEARCH OF A POSSIBLY CONTRARY CONGRESSIONAL INTENT. . " Otherwise, what is the purpose of this High Court ruling upon a law that the lower courts blatantly throw overboard.

ERGO, this High Court's wisdom is desperately needed herein.

3. *The Paperwork Reduction Act (PRA) of 1980*, a.k.a. 44 U.S.C§ 3512-PUBLIC PROTECTION ACT- is not only applicable to the NATIONAL FOREST SERVICE, *U.S.v.HATCH, another 9th Circuit case(1990)*, 919 F2d 1394 at 1395, but it SHOULD APPLY to the IRS and its agents.

The 9th Circuit Memorandum in case at bar, completely DISALLOWED, and never addressed the issue,/* which filled CHOWS' FIRST AMENDED COMPLAINT. Having the knowledge or should have known the facts, the panel throw out that issue by not ruling on it.

Not only did the IRS and its agents refuse and disregard ALL the IRS laws, but they also overrule 44 U.S.C. § 3512 which this High Court is called to decide this ISSUE OF FIRST IMPRESSION, the question of Federal Law, which has not been, but should be, settled by this High Court, based upon the PRA ACT above to protect the PUBLIC FROM BOOTLEG REQUEST.

/* *only casually mentioned on PET.APP.1 page 3 note 2*

" . . The INTERNAL REVENUE SERVICE AND certain bank supervisory agencies were exempted from the ORIGINAL REPORTS ACT. . .

The present fragmented responsibility for clearing information requests WILL BE CONSOLIDATED in the Director of OMB, and *NO AGENCY EXEMPTIONS*, **except the Federal Election Commission,WILL BE ALLOWED.** "

5 U.S.C.C.A.N. p 6253, 1980

Inspite of the knowledge,or the 9th Circuit should have known its own ruling in 1990, these ORIENTAL litigants have been "thrown overboard" by completely not addressing the vital question of Federal Law, to prevent the IRS' abuses which run rampart and amok.

CHOWS were recklessly and intentionally destroyed,e.g. disregard ALL provision and regulation to collect taxes, CHOWS are authorized to sue ALL agents for failure and refusal to release the levy/lien,including actual and direct economic damages,in the same manner as it was ruled in NOW,Inc,supra.

26 U.S.C. §§ 7432 and 7433 et seq.

entitled CHOWS or any other person, to sue the IRS and its agents. However, the Lower Courts erroneously refused to make any ruling on this PRA Act which also applied to the IRS,for knowingly,by reason of gross negligence[1] § 7432(a) is the law to waive the IRS sovereign immunity.

Even up to this moment, after repeated filing of the return for 1991, GIORDANO continued to FILE NOTICE OF LEVY,for the very same year CHOW had been personally delivering,since 1993 to present. SOMEBODY MUST HAVE DESTROYED those 44 pages of returns.

Although the RETURNS were stamped in the FLAIR Drive,El Monte Office,GIORDANO continued to illegally levy on the bank, now.

This issue is of such imperative public importance, and the 9th Circuit refused to apply equally all the laws to others as to CHOWS, this Court's wisdom is vital to settle the questions of Federal laws: RICO, PRA ACT,and 26 U.S.C. §§ 7432,7433 and 2410 of Title 28,be applicable in case at bar.

[1] NOT TO HOLD IRS etc. LIABLE and

5. In addition to the disregard of ALL IRS STATUTES, THE Lower Courts also departed from the accepted and usual course of judicial proceedings. For instance, just by logic, LOSSES COULD EXCEED WINNINGS in gambling.

The case precedent *GROETZINGER v. CIR (7th Circ.1985)*, 771 F2d 269,at 270,which resulted in GAMBLING,as an occupation,its losses can exceed the winnings. This High Court has NOT finally determined this issue of public importance also. As such, CHOWS humbly request that this High Court settle this important question.

6. YES, the IRS illegally acted above Congress. IRS picks and choose their own time,and NEVER complying with ANY LAWS. That's why hundreds of persons/victims,have filed a class action in UTAH and other states. (PET.APP. 7).

Having the knowledge of what are the pre-

requisites to a levy, the CREDIT UNION defendants cited *AM. ACCEPTANCE CORP. v. GLENDORA BETTER BUILDERS, INC, ANOTHER* 9th *Circuit case*, for the Lower Court to dismiss.

The issue determined by the 9th Circuit, was THE ELEMENTS for a LEVY to be:

" 1) AN ASSESSMENT;(2) NOTICE and DEMAND TO PAY,AND A FAILURE TO PAY THE TAX. ."

Case at bar, there was NEVER AN ASSESMENT for 1987 and 1988. Only million and billion dollars of false "ASSESSMENTTS."

See PET.APP.4, pp 1-4. *550 F2d 1220 at 1223(9th Circ.1977)*

Defendants' own citation,approved by the 9th Circuit Court, that,the ONLY prerequisites(PLURAL) to a levy(singular) are the basic assessment. . HAVING NO ASSESSMENT to be attacked by the CHOWS,how the 9th Circuit claimed that "CHOWS ATTACKED COLLATERALLY the merits of the levy." This is mindboggling and CHOWS are calling this Court's wisdom to settle this imperative public importance issue which has NOT BEEN SETTLED BY THIS High Court,yet.

Here, like the situations in NOW,Inc,supra, ARFORD,supra,SCAR v. C.I.R. GROETZINGER,supra,INFORMATION RESOURCES, INC,supra,STALLARD,supra,PORTILLO,supra and U.S.vLocke,supra, the 9th Circuit conflicted itself since 1987 to present,with itself and other Appellate Courts. Petitioners and millions of others in similar situations, respectfully call for this High Court's wisdom and exercise of the power to supervise the imperative public importance questions of Federal Law which had not been,but should be,SETTLED by this Court.

CONCLUSION

This Petition for Writ of Certiorari should be GRANTED,and this case remanded to the lower Court for a decision which is consistent with ALL laws ,reverse the dismissal, and denial of the $ 1500.00 sanction against the CHOWS ,and allow amendment of complaint.

Dated: 09-17-1994

JOHN F.CHOW ESTHER K.CHOW
Petitioners-Plaintiffs

VERIFICATION

STATE OF CALIFORNIA,COUNTY OF LOS ANGELES:

The undersigned say that I AM one of the Petitioners.

We have read the PETITION FOR CERTIORARY and know the contents thereof;and that the same is true of our own personal knowledge,except as to the matters whichare therein stated upon our information,and as to those matters that we believe it to be true. WE certify under penalty of perjury,that the foregoing is true and correct.Executed in Rosemead,CA On 9/19/1994.

JOHN F.CHOW ESTHER K.CHOW
Petitioners-Plaintiffs

PROOF OF SERVICE

I am a resident of California;I am over the age of 18 years and a party to this action. My address is 3100 Del Mar Ave,Rosemead,CA.

On 9/19/94, I served PETITIONERS' BRIEF with attachments on: 9th Circ.C.A.San Francisco-CA

1) G.A.ALLEN,Tax Attorney,Dept.of Justice Appellate Div.P.O.BOX 502,Washington D.C. 20044
2) S.B.Wolfe 624 S.Grand Ave,19th Flooe Los Angeles-CA 90017
3) DREW DAYS,Solicitor General Dep.of Justice,Washington D.C.20530

I certify under penalty of perjury that the foregoing is true and correct.Executed in ROSEMED CA on 9/19/94.

E.CHOW

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED May 16, 1994
Clerk USCA 9th

JOHN F.CHOW,ESTHER K.CHOW,
Plaintiffs-Appellants,

No.93-56162

vs.

DC # CV 93-02079 WJR

INTERNAL REVENUE SERVICE;M. GIORDANO;Ms.WILLIAMS;THERON POLIVKA;SOPHIA B.CHEW;HOMER BELL;CYNTHIA BRAGANZA:MICHAEL J.QUINN;MALIA BERUMEN'JEFFREY ETTRESS;FRIEDA GILL;DEBBIE WYANT;RaNAE FIELDING;RICHARD ZANARINI;CALIFORNIA ADVENTIST F.C.U.;DENNY DOCIL;DEVIER McGUFFIN; UNITED STATES IRS,

Defendants-Appellees.

MEMORANDUM*

Appeal From the U.S.District Court
for the Central District of California
William J.Rea,District Judge,Presiding

Submitted May 11,1994 **

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir.R. 36-3.

** The panel finds this case appropriate for submission without argument pursuant to 9th Cir.R.34-4 and FRApp.R.P.34(a)

Before: HUG, D.W.NELSON and FERNANDEZ
Circuit Judges.

Plaintiffs John and Esther Chow appeal pro se (1) the district court's dismissal for lack of subject matter jurisdiction of their suit against the IRS and various IRS employees, and (2) the district court's dismissal for failure to state a claim of their suit against the California Adventists Federal Credit Union. We affirm the district court in both respect.

I.

On 4-9-1993, the Chows filed a complaint in district court against the IRS and several of ots officials. The Chows amended their complaint on 4-29,1993, in order to add the California Adventist Federal Credit Union and two of its employees. The complaint was apparently in response to a March 23,1993, IRS levy on the Chows'account at the credit union, which in turn was made to satisfy tax deficiencies for 1987 and 1988. The Chows alleged that the various IRS andcredit union defendants (1) violated the RICO, (2)committed common law fraud, (3)conspired to deprive the Chows of their civil rights. The CHOWS sought treble damages, punitive damages and declaratory relief.

The IRS defendants moved to dismiss the Chows' complaint for lack of subject matter jurisdiction, on the ground that the U.S.had not waived its sovereign immnuity. The credit union defendants moved to dismiss the complaint for failure to state a clam upon which relief could be granted, on the ground

that they were immune from suit under 26 USC § 6332(e). The district court granted both motions. The Chows timely appeal.

II.

On appeal the Chows **ASSERT A CASCADE OF CHALLENGES to the IRS levy. These consist of (1) ALLEGED PROCEDURAL DEFECTS** in the IRS assessments[2] and (2) arguments going to the substantive amounts of their tax liabilities.

At the outset,however, we must address the government's defense for sovereign immunity. . .

---

2 Specifically, the Chows assert that the IRS defendants (a) failed to issue a timely assesment in the form required by 26 U.S.C.§6203; (b) failed to stamp information requests with control numbers **REQUIRED by 44 U.S.C.§3512;(c) failed to honor their FOIA requests for documentaiton; (f) illegally shared information" with state officials In violation of 26 U.S.C § 6103; (e) failed to make A DETERMINATION UNDER 26 U.S.C.§ 6212(a): (f) generally acted in a gestappolike manner."**

3 In this vein, the Chows argue that : (a)they failed to consent to an EXTENSION of the statute of limitations;(b)they "NEVER OWED"taxes for 1987 and 1988 to the IRS,AND WERE THUS "falsely accused"; (c) the IRS improperly limited their GAMBLING loss deductions to theam amount of GAMBLING gains;(d) the limitation on gambling loss deductions constitutes CRUEL and UNUSUAL punishment;(e) the IRS IMPROPERLY DISALLOWED certian deductions related to rental property; and (f) the assessment amounts were "extraordinary."

. . . . The Chows assert several jurisdictional bases, but NONE OF THEM OPERATES to waive the government's sovereign immunity. First,the Chows contend that the U.S. waived its immunity under 28 U.S.C. § 2410,which allow suits to "quiet title to . .real **OR PERSONAL** propertyon which the U.S. HAS or CLAIMs . .other lien." 28 U.S.C. § 2410(a).

The Chows ARE WRONG. They MAY NOT USE § 2410 for their **COLLATERAL ATTACKS ON THE MERITS of the IRS assessment. . . "**

The Chows next rely on 26 USC § 7433,which **ALLOWS** taxpayers to sue the U.S. when IRS employees RECKLESSLY or INTENTIONALLY disregard IR STATUTES or REGULATIONS in their **COLLECTION ACTIVITIES.. . . ."**

5

In their reply brief, the Chows contend that they DID exhaust administrative remedies,apparently viewing their numerous letters to IRS officials as administrative claims.. . Moreover, the Chows fail to show how,or even allege that,their purported claims complied with the procedures in Treas.Reg.§ 301.7433-1 (e). NOR DID THEY PRESENT THIS CLAIM TO THE DISTRICT COURT.

The Chows also assert subject matter jurisdiction under **RICO, 18 U.S.C. § 1964(c),** contending that the IRS represent a "racketeering activity enterprise." We disagree.

. . . .

Finally, the Chows assert jurisdiction under general jurisdictional statutes,namely,28 1331 and 1343.. . .

CHOWS' NOTE: The 9th Circuit intentionally ommitted 28 U.S.C. § 1346 which was stated on the complaint,p 4,line1(**EMPHASIS ADDED**).

. . . .

AFFIRMED with $1500 sanction in favor of IRS.

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED JUNE 30, 1994
Clerk USCA 9th

JOHN F.CHOW,ESTHER K.CHOW,
Plaintiffs-Appellants,

vs.
INTERNAL REVENUE SERVICE;M. GIORDANO;Ms.WILLIAMS;THERON POLIVKA;SOPHIA B.CHEW;HOMER BELL;CYNTHIA BRAGANZA:MICHAEL J.QUINN;MALIA BERUMEN'JEFFREY ETTRESS;FRIEDA GILL;DEBBIE WYANT;RaNAE FIELDING;RICHARD ZANARINI;CALIFORNIA ADVENTIST F.C.U.;DENNY DOCIL;DEVIER McGUFFIN; UNITED STATES IRS,

Defendants-Appellees.

No.93-56162

DC # CV 93-02079 WJR

ORDER

Before: HUG,D.W.NELSON and FERNANDEZ, Circuit Judges

The panel has voted to deny appellants' petition for rehearing and to reject the suggestion for rehearing en banc.

The full court has been advised of the suggestion for rehearing en banc and no active judge has requested a vote on whether to rehear en banc. Fed.A.App.P 35

The Petition for rehearing is denied a and the suggestion for rehearing en banc is rejected.

JOHN F.CHOW and ESTHER K.CHOW
3100 Del MAr Ave
Rosemead,CA 91770-2394
(818- 2885300

March 29,1993

IMMEDIATE DEMAND TO RELEASE OR REJECTION OF NOTICE OF LEVY TO BANK OR SUIT WILL FOLLOW

ATTENTION: Chief of Collection,Ms.WILLIAMS
MICHAEL J.QUINN,Director L.A.
THERON POLIVKA,Fresno Director
Etc.

YOU and EACH of you are hereby noticed and DEMAND is MADE by JOHN F.CHOW and ESTHER K.CHOW,both victims of IRS FRAUD and DECEIT,pursuant to 26 USC § 7422. .to return my,ESTHER CHOW's monies illegally levied by you on MARCH 23,1993 thru my bank in GLENDALE,CA 91209-1109,nunc pro tunc,or immediately,or you and each of you will be sued in the Federal District Court,individually and officially for intentionally preparing false evidence. .without compliance with your own IR Code,including RICO ACT violations for our 1988 tax return. . This claim is made for the year ending 12/31/88, for the release of Federal TAx lien . .pursuant to 26 USCA §§ 6335(d)(2) and 6502(b). .against the principles set forth in *BRAFMAN v.U.S.* (5th,1967),384 F2d 863,865.

JOHN F.CHOW ESTHER K.CHOW

RECEIVED
LOS ANGELES
DISTRICT 3/31/1993
DISIRICT DIRECTOR
M.J.QUINN Rm 5078
IRS

CAVEAT: NO FURTHER NOTICE WILL BE SENT..

CHOWS' NOTE: This is the 58th letter to exhaust the administrative remedies since 9/29/89.

PET.APP.3

PET.APP.4 P 1

014

CHOWS' NOTE:

THESE ARE THE FALSE UTL 49 AGAINST THE PRINCIPLES SET FORTH IN 26 USC § 6202 ET SEQ.

ATTACHED FOR THE COURT'S DETERMINATION AS TO HOW IT LOOKS LIKE ONLY.

PET.APP.4P2

015

SUMMARY RECORD OF ASSESSMENTS

| | | |

PET.APP 4 P4

016

PAGE REPORT-000 SUMMARY RECORD OF ASSESSMENTS TIME 09:12:27 DATE 11/23/92 PAGE 2

DEPARTMENT NUMBER 01 11303 00000 FRESNO SERVICE CENTER ASSESSMENT TAPE 0 ASSESSMENT DATE 11/23/92

CLASS OF TAX

ITEMS	TAX	PENALTY	INTEREST
OFFSHORE OCS ACT ASSESSMENTS			
1013/228	$ 2,[illegible]/[illegible]/[illegible].36	$ 22,735/87[illegible].32	$ 20,852/513.72
TOTAL ASSESSMENTS			
1013/228	$ 2,[illegible]/[illegible]/[illegible].36	$ 22,735/87[illegible].32	$ 20,852/513.72

SEC. 8[illegible] ASSESSMENTS

ITEMS	TAX	PENALTY	INTEREST
0	0.00	0.00	0.00

TAX CLASS SUMMARY

TAX CLASS	AMOUNT	ITEMS	AMOUNT
WITHHOLDING	$ 1,00[illegible]/[illegible]/[illegible].28	153	$ 1,[illegible]/[illegible]/[illegible].94
INCOME	$ 1,[illegible]/[illegible]/[illegible].04	2	$ 1,[illegible].71
CORPORATION	$ 8[illegible]/[illegible].00	2	$ 2,[illegible]/[illegible].38
EXCISE	1,[illegible] $ 10[illegible]/[illegible].15	OCS SPILL 0	$ 0.00

PRINCIPAL TAXPAYERS AND AMOUNTS NUMBER OF PRINCIPAL TAXPAYERS 0

RELATED TO JEOPARDY ASSESSMENTS	$	AMOUNT 0.00

CERTIFICATION

I CERTIFY THAT THE TAXES, PENALTY AND INTEREST OF THE ABOVE CLASSIFICATIONS HEREBY ASSESSED ARE CORRECTLY SUPPORTING RECORDS SUBJECT TO SUCH CORRECTIONS AS SUBSEQUENT INQUIRIES AND DETERMINATIONS MAY INDICATE TO BE PROPER.

SIGNATURE (FOR SERVICE CENTER DIRECTOR OF INTERNAL REVENUE SERVICE)

DISTRICT DIRECTOR

DATE [illegible]

Santa Rosa Man Gets Tax Bill For $4 Billion

By Ron Sonenshine
Chronicle Correspondent

Manuel Gonzales is contemplating framing his Internal Revenue Service bill for August.

"I know I owe them money," the 44-year-old Santa Rosa barber said yesterday. "But with what they say I owe, I could reduce the deficit for the whole world."

In fact, he has already sent a copy of the bill to President Clinton, suggesting that the money he supposedly owes be used to wipe out the national debt.

The good-natured father of two said he earned less than $10,000 last year and could not believe the bottom line on his tax bill: $4,112,-186,025.44. As in billion.

According to the IRS statement sent to Gonzales, his total tax liability had started out at $98,037,394,-206.32.

Gonzales said he does owe the government about $7,000 in back taxes and has been making monthly payments.

"I was kind of flabbergasted by this," he said. "That's a lot of haircuts."

In matter-of-fact fashion, the IRS did not ask for the entire lump sum. Instead, they demanded only that Gonzales pay his customary $150 a month.

According to spokesman Larry Wright, Gonzales was one of 3,000 taxpayers across the country to receive identical $4 billion bills because of a computer glitch.

"There's no such thing as a small computer error," said Wright. "When the IRS makes a computer error, it repeats itself over and over."

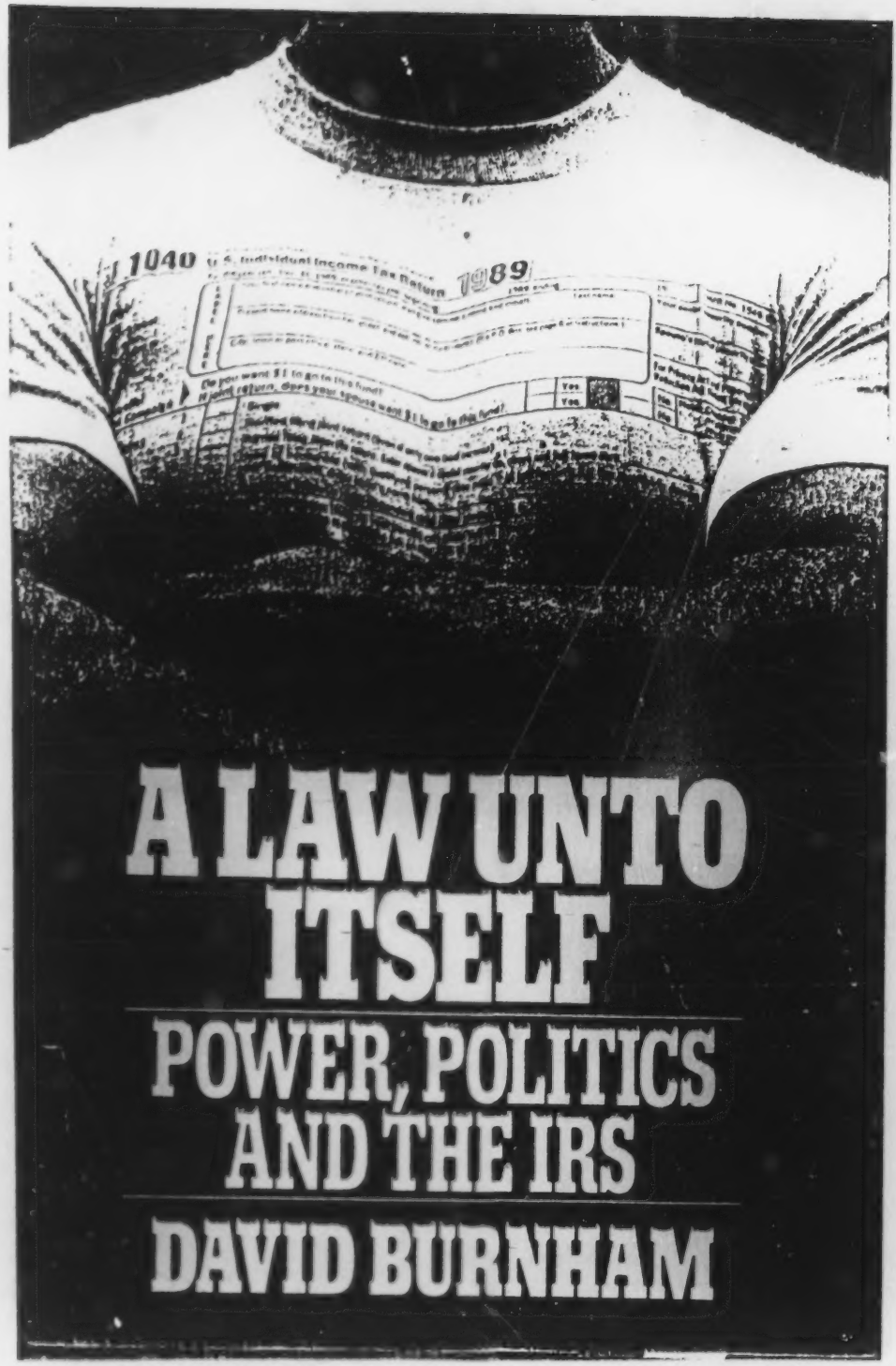
The snafu occurred when the IRS attempted to make a computer programming change in Missouri and Iowa for those Midwest residents who were flood victims, said Wright.

All the barber has to do is call the IRS, Wright said, and they will make an adjustment on his bill.

Gonzales said he will pursue that course of action.

"Their computers are all fouled up," Gonzales said. "If we have to depend on the high-tech world of computers, I'm not sure we're going to make it."

PET.APP. 5


1040
1989
A LAW UNTO ITSELF
POWER, POLITICS AND THE IRS
DAVID BURNHAM

PET.APP.6 P1

3 9009 02116 5614

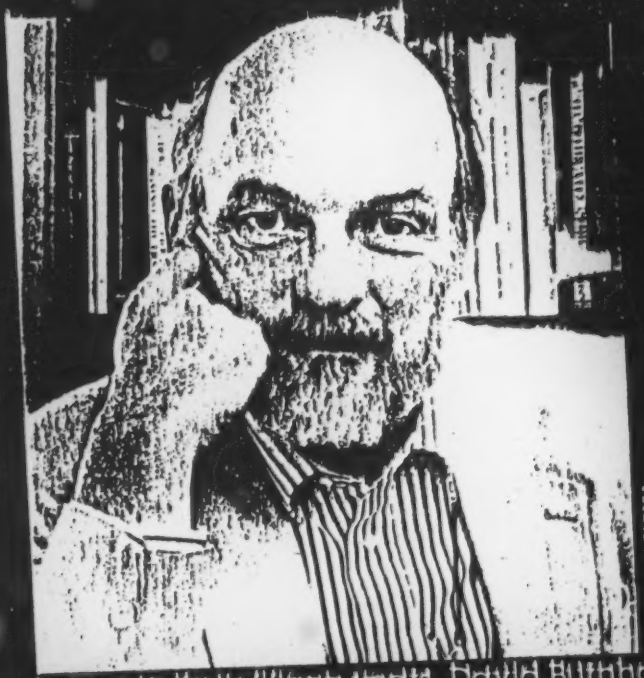


PHOTO: TERESA ZABALA

For more than fifteen years, David Burnham was an investigative reporter for *The New York Times* in New York and Washington. His reporting, based on information from Frank Serpico and David Durk, led to the creation of the Knapp Commission on police corruption in New York City and far-reaching reforms in its police department. Then, four years before the Three Mile Island incident, he turned his attention to the serious problems plaguing the nation's nuclear industry. Karen Silkwood was on her way to tell him about what was happening at the Kerr-McGee nuclear plant in Oklahoma when she died in a still-disputed car crash.

Before joining the *Times*, Burnham worked for UPI, *Newsweek* and CBS. He has won the George Polk Award for Distinguished Investigative Reporting and a number of Page One awards from the New York Newspaper Guild, the Silurian Society and the New York Press Club. He is also the author of *The Rise of the Computer State*, an investigative book published in 1983 on how the growth of powerful computerized bureaucracies is gradually altering the nature of representative democracy.

PET.APP.6 P2

COPY

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(801) 489-6925
FAX (801) 489-1116

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

APR 21 1994

MARKUS B. ZIMMER, CLERK

BY _____ DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

ALBERT CARTER, JOSEPH CHRISMAN, LARRY B. ABRAHAM, DENNIS ADAMS, JESSICA ADAMS, CHRISTOPHER ALLEN, MADELYN BURLEY-ALLEN, HARRY AMEND, JEAN AMEND, DEREK H. AMIMOTO, STANLEY M. ANDERSON, DANIEL ANDERSON, BARBARA ANDERSON, SAMUEL ANDERTON, ILAVEYE ANDERTON, RHOE APT, J. LEIS ARMENTA, NEREIDA ARMENTA, WENDELL BACON, LINDA BACON, KIRK L. BANDY, CHARMAINE BASSETT, GEORGE BELL, SUE BETHEL, CAROL V. BIAGINI, CLAIR BIXLER, DORCAS BIXLER, JENNIE BLIEK, RICHARD BOGARD, RICHARD BOGARD, EDGAR F. BRADLEY, LEO BRUEGGEMAN, CONNIE BRUEGGEMAN, JUDITH ANN BUGAI, ALAN FRANCIS BUGAI, CAROLYN A. BURDEN, BRUCE H. BURDEN, THOMAS E. BUMPUS, GRACE BUSTAMANTE, THOMAS D. CABANISS, DANEIL M. CARLSON, PATTI R. CARLSON, KAYTE CARR LEVINE, THOMAS B. CARRIER, CURTIS CAREY, NANCY CAREY, JOHN CHAPPELL, ARLAND CLARK, MARY MARGARET CLARK, JERRY CLINGENPEEL, KARL F. COLLINS, N.L. COLLINS, WALTER CONNER, MARY CONNER, MARVIN A. COOK, ALAN J. COTTLE, E. HEIDI COTTLE, KENNARD L. COX, ROSE M. COX, ELLIS J. CRUM, NORMA N. CRUM, JAY CRUM, NANCY CUMPSTON, SUSAN CRANSTON, ROBERT DARLING, JOAN M. DARLING, ROGER DAVENPORT, AMELIA F. DAVIDSON, RICHARD DAVIDSON, GEORGIA R. DEMEREST, NORMA L. DENAREK, HARRY DEVEREAUX, LEO DE GROOT, JOAN DE GROOT, ALAN T. DEROSIER, DONNA

COMPLAINT - CLASS ACTION
(DECLARATORY RELIEF)

CASE NO. 94 C 4271

PET.APP.7

LAVERDURE, DENISE LAVERDURE, MARK NIBLETT, SHARON NIBLETT, RAY PSONAK, JANET PSONAK JON L. STACHELRODT, NANCY ROSE, ELSUKE SASAGANA, JINNY WURST, ROBERT A. WATERHOUSE, and CONNIE WATERHOUSE and on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

THE INTERNAL REVENUE SERVICE, COMMISSIONER OF THE IRS, DISTRICT DIRECTORS, and ALL OTHER DELEGATED AGENTS,

Defendants.

Plaintiffs, for themselves and all other members of the class hereinafter described or persons similarly situated, allege:

I.

The jurisdiction of this court arises under 28 USC §§ 1331, 1332(a)(1), 1346(a), 5 USC § 702, Article III § 2 of the United States Constitution.

II.

The named plaintiffs are residents of the following cities and states:

CALIFORNIA: El Cajon, Rock Valley, Long Beach, San Jose, Castro Valley, Arroyo Grande, Clayton, Marina Del Rey, Los Angeles, Fullerton San Diego, Roverside, Visalia, Oceanside, Ventura, Chula Vista, Santa Barbara, Big Sur, Laguna Beach,

Santa Rosa,Sonoma,Hemet,Gardena, Jamul,Redwood City, Paradise,Bethel,Borrego Springs, Bella Vista,Indiana,Franklin,South Bend, Ft.Wayne,Goshen,Elkhart,Indianapolis,Gebn Geneva,Chesterfiled, Kendallville,Marion,Ohio Woster,N.Royalton,Cuy Falls,Orville,Westchester,Hamilton,Richmond Heights,Badfield, Bedford Hts.,Maple Hts,Ironton,Tallmadge, Cincinatti,Logan,GAmbler,Toledo,Columbus, PioneermYoungstown,Mt.Vernon,Cedarville, Royalton,Marysville,Canal Minchester,Wapakonela,Utah,Orem,Provo,Riverton,Salt Lake City,American Fork,Spanish Fork,Pleasant Grove,Hyrum,Sandy,Roosevelt,St.George, Springville,W.Valley City,Mant,Miner,Midvale,Price,Bountiful,Vernal, Wellington, Ogden,Hooper,Michigan,Rodney,Bellaire, Belding,Clare,Byron,Saginow,Gailsburg, Clarkston,Bridgeport,Pigeon,Temperance, COLORADO: Colorado Springs,Denver,Evergree,Englewood.Boulder,Westmore,Littleton, Pennsylvania: Bulger,Meadville,Pittsburg, Claysville,Monogahela,Allentown,Hermitage, LIBRARY: N.Carolina,Greensborn,Yodkinville, Apex,Fairview,Oakridge,New Hill,Garner, Cory,Rosman,Gastonia,Charlotte,Winston-Salem,Indian Trail,Taylors,Brown Summit, Morresville,ALABAMA: N.Point,Tuscaloosa, Birmingham, TENNESSE: Antioch,Hermitage, Nashville,Bristol, TEXAS: Conroe,Odessa, Houston,Leander,McAllen,Abilene,Garland, Austin,Mathis,Midland,Forth Worth,Fredericksburg.El Paso,Ft.Worth and hundreds more,too numerous to count .

III.

The defendants are those whose duty it is to manage and direct the tax laws of the United States of America and whose ACTIONS are controlled by STATUTE and the UNITED STATES Constitution and include,

the agency itself the IRS, the Commissioner, District Directors, and all delegated agents with authority under the IRS Code to officiate in the PROPER ADMINISTRATION of the laws of the United States.

IV.

This action was brought by the plaintiffs as a class action,on their own behalf and on behalf of all others similarly situated,under the provisions ofF.R.Civ.P.23(a) and 23(b)(1), (2) and (3),for declaratory relief pursuant to 5 USC § 702. .so monetary relief is sought h however,the case in CONTROVERSY could impact on MILLIONS of dollars,. .

V.

The class so represented by plaintiffs in this action,and of which plaintiffs are themselves members,consists of ANY and ALL AMERICAN who have experienced ABUSE by the IRS and/or its agents. More particularly from the ACTIONS which have been inconsistent with the **STRICT LETTER OF THE LAW and its FAIR and JUST OPERATION as indicated by the intent of CONGRESS and the record of their proceedings. . .IT IS A NON-MONETARY action (5 USC § 702) to seek declaratory relief from the District Court with regards to** the PROCEDURE,CONDUCT AND BEHAVIOR OF THE IRS,its Commissioners,Directors and del-delegated agents.